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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,213	05/21/2001	Hiroji Yoshida	81833.0027	6580

26021 7590 07/16/2003  
HOGAN & HARTSON L.L.P.  
500 S. GRAND AVENUE  
SUITE 1900  
LOS ANGELES, CA 90071-2611

EXAMINER

BOYD, JENNIFER A

ART UNIT	PAPER NUMBER
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1771

8

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/786,213

Applicant(s)

YOSHIDA ET AL.

Examiner

Jennifer A Boyd

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2003.
- 2a) ☐ This action is **FINAL**.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 4-6 and 10 - 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 7 - 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. The Examiner acknowledges the election of claims of Group I, claims 1-3 and 7-9, drawn to a three-dimensional randomly oriented non-woven, without traverse in Paper No. 7. Claims 4-6 and 10-12 are withdrawn from consideration.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 – 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujimoto (JP 09-078425).

Fujimoto is directed to a fiber padding cushioning material (page 1, [0003]). Fujimoto teaches a non-woven fabric. It should be noted that the definition of a non-woven fabric according to *Complete Textile Glossary* by Cellulose Acetate is an assembly of textile fibers held together by mechanical interlocking in a random web or mat, by fusing of the fibers or by bonding with a resin. Initially, the fibers may be oriented in one direction or may be *deposited in a random manner*. As seen in drawing 1, the non-woven fabric is three-dimensional. Fujimoto

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teaches that the non-woven comprises a sheath-core conjugate fiber having isophthalic acid copolyester as the sheath and polyethylene terephthalate as the core having a denier of 1 - 10 and a sheath-core conjugate fiber having a denier of 0.5 - 30 (Abstract). The melting temperature of the polyethylene terephthalate is 20 or more degrees Celsius higher than the melting temperature of the isophthalic acid copolyester (Abstract).

4. Claims 7 - 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Keck (US 5,874,160).

Keck is directed to a spunbonded fiber webs bundled into a three-dimensional shape (Abstract). It should be noted that the fiber bundles are equated to Applicant's "fiber lumps". Keck teaches the web comprises fibers having a diameter between 60 microns and 500 microns (column 2, lines 35 - 40). It should be noted that, for example, a typical polyester fiber has a density of 1.39 g/cm<sup>3</sup> and, therefore, polyester fibers with a diameter of 500 microns have a linear density of approximately 2500 denier. Keck teaches that the macrofibers can be monocomponent or multi-component such as sheath-core fibers comprising polyethylene as the sheath and polypropylene as the core (column 2, lines 40 - 45). It should be noted that polypropylene has a melting temperature around 170 degrees Celsius and polyethylene has a melting temperature around 120 degrees Celsius.

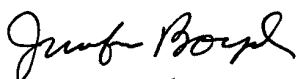
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Boyd whose telephone number is 703-305-7082. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Jennifer Boyd  
July 11, 2003

